

**United States Senate Committee on Finance
July 31, 2025**

Hearing to Consider the Nominations Bryan Switzer, of Virginia, to be a Deputy United States Trade Representative (Asia, Textiles, Investment, Services, and Intellectual Property), with the rank of Ambassador, vice Sarah Bianchi; Gustav Chiarello III, of Virginia, to be an Assistant Secretary of Health and Human Services, vice Robert Michael Gordon; The Honorable Michael Stuart, of West Virginia, to be General Counsel of the Department of Health and Human Services, vice Samuel R. Bagenstos, resigned; and Derek Theurer, of Virginia, to be a Deputy Under Secretary of the Treasury, vice Jonathan Davidson.

Questions for the Record submitted to The Honorable Michael Stuart from Senator Chuck Grassley.

Question 1: I have previously worked with the Health and Human Services General Counsel on the lack of drug company compliance with the 340B Program. To date, dozens of drug companies have been referred to the HHS Inspector General over contract pharmacy issues. Rural hospitals and pharmacies rely on the 340B Program. Will you commit to enforcing the 340B Program and holding drug companies accountable?

Response: I look forward to learning more about this issue and will follow the law.

Question 2: I am the author of major and more recent updates to the False Claims Act. Since the enactment of these reforms, the federal government has recovered more than \$78 billion lost to fraud and saved billions more by deterring would-be fraudsters. In 2024, there was more than \$2.9 billion in False Claims Act settlements and judgments, with \$1.7 billion of it involving the health care industry. Whistleblowers were responsible for helping to recover nearly all of this. The Justice Department and HHS need to more aggressively go after health care waste, fraud, and abuse and empower whistleblowers. Do you have any bias against the False Claims Act that would affect your advice to HHS in cooperation with the Inspector General, the Department of Justice, and generally on efforts to combat fraud against government health-care programs?

Response: No.

Question for the Record submitted to The Honorable Michael Stuart from Senator Tim Scott.

Question 1:

- Congress is working with the Trump Administration to root out waste, fraud, and abuse across the government. As Congress works with the Administration to right-size spending to accomplish its goals of Making America Health Diseases such as Sickle Cell disproportionately impact Black Americans and support for programs to track and improve health care delivery are essential to addressing factors that lead to differential health outcomes. I am thrilled with Secretary Kennedy's commitment to improving access to cell and gene therapies for rare diseases, which will significantly improve the quality of life for many patients with Sickle Cell Disease.
 - Will you commit to ensuring that programs that track and address disparities in care do not get mislabeled as DEI initiatives?

Response: I am looking forward to working with you to ensure the department's efforts to combat sickle cell disease, including working to ensure that efforts are not hindered by unintentional barriers.

Question for the Record submitted to The Honorable Michael Stuart from Senator Blackburn.

Question 1:

We share the Administration's commitment to ending this public health crisis. As part of this effort, in 2022, Congress enacted the Non-Opioids Prevent Addiction in the Nation ("NOPAIN") Act as part of the Consolidated Appropriations Act, 2023 (PL 117-328). However, we are concerned that, in implementing this law, CMS is unnecessarily restricting access to products that may qualify for separate payment under the NOPAIN Act. The statute says that, in order to qualify, a drug must have "a label indication approved by the Food and Drug Administration to reduce postoperative pain, or produce postsurgical or regional analgesia, without acting upon the body's opioid receptors." CMS appears to believe that if the FDA-approved indications section of the label does not explicitly mention "postoperative" or "postsurgical" analgesic support, then the drug does not qualify for separate payment. Often, products that receive a label indication to treat acute pain conduct trials studying efficacy in postsurgical settings and are approved with the intention of using the products in those settings. However, these medications may not be subject to separate payment if their label does not specifically reference an indication for postsurgical analgesic support. By excluding these products from separate payment, CMS risks violating the intent of the NOPAIN Act and the goal of reducing unnecessary exposure to opioids.

- Will you commit to evaluate the language included in the NOPAIN Act, and engage with CMS to achieve appropriate implementation that accounts for products with an indication for treatment of acute pain and labeling demonstrating efficacy for postsurgical analgesic support?

Response: I promise to look into this issue and will follow the law.

Questions for the Record submitted to Michael Stuart from Ranking Member Wyden.

Question 1: During the Senate Finance committee hearing to consider your nomination, you provided unacceptable answers to the question of how you would make sure that hospitals are complying with federal requirements under the Emergency Medical Treatment and Labor Act (EMTALA), which requires hospital emergency departments to provide emergency stabilizing medical treatment, including emergency reproductive health care and abortion care, to all patients. Please provide a written response detailing the specific steps you will take to make sure that hospitals are complying with EMTALA if you are confirmed as the General Counsel of the Department of Health and Human Services.

Question 2: During the hearing to consider your nomination, you made a vague reference to your interest in producing guidance related to EMTALA. What guidance will you issue to clarify requirements under EMTALA? Please outline the specifics and how this guidance will address chaos and confusion of doctors and other health care providers that are seeking to provide emergency abortion care in states with strict abortion bans.

Response (1-2): As General Counsel, I will follow the law on EMTALA and encourage others to do the same.

Question 3: You have repeatedly stated your “complete confidence” in Kennedy and President Trump’s desire to follow the law. If confirmed, will you commit to providing independent legal analysis, even when that analysis may conflict with the policy priorities of the Trump Administration or Kennedy?

Question 4: If a policy directive from Kennedy, in your legal judgment, violates statute, will you advise the Secretary against it and document your legal reasoning?

Response (3-4): If confirmed, I will provide my best legal counsel to the Secretary and President Trump.

Question 5: In June 2025, you received campaign contributions from entities with regulatory interests before HHS, including CareSource and Altria. If confirmed, will you recuse yourself from any legal matters involving these organizations?

Question 6: How do you respond to concerns that receiving previously unprecedented contributions after your nomination from entities like a vaping company CEO, who has been subject to FDA enforcement, undermines the appearance of impartiality required of the General Counsel?

Response (5-6): I will remain in close contact with HHS Ethics and comply with all ethics laws to protect myself from conflicts of interest.

Question 7: What is your assessment of Kennedy’s leadership in the wake of the country’s worst measles outbreak in three decades? Do you think he is doing a good job?

Response: Yes.

Question 8: Do you support Kennedy's removal of the COVID-19 vaccine from the CDC schedule and termination of the Advisory Committee on Immunization Practices (ACIP)? What legal authority justifies these actions?

Response: I agree with the Secretary's commitment to gold standard science as outlined in the President's May 23rd Executive Order. Since the Secretary exercises authority over the CDC and acts through the Director, the Secretary has the legal authority to review and make changes to ACIP recommendations.

Question 9: If the Administration proceeds with dismantling the United States Preventive Services Task Force (USPSTF), will you advise on whether doing so requires public comment or violates the law?

Response: I will advise the administration to follow the law.

Question 10: You expressed support for the Trumpcare legislation but admitted minimal knowledge of its provisions. How will you provide legal counsel on implementation of policies like Medicaid work requirements or ACA sabotage/repeal, which may conflict with federal law or court rulings?

Response: I will advise the administration to follow the law.

Question 11: You have mentioned that you understand the importance of Medicaid and that you have neighbors in West Virginia enrolled in Medicaid. The Office of General Counsel under the Biden Administration advised that Medicaid work requirements are inconsistent with Medicaid's core purpose *of furnishing Medicaid coverage*. Do you agree with that assessment? What would you tell your neighbors that rely on Medicaid about how they should go about obtaining health care in the future?

Response: I support the work requirements finalized in the One Big Beautiful Bill.

Question 12: The Republican reconciliation bill creates mountains of red tape for people with Medicaid, including more frequent eligibility checks, work requirements, and the elimination of rules that streamline enrollment and eligibility for kids, seniors, and people with disabilities. We *know* that many people who are entitled to Medicaid benefits will lose their coverage due to this bureaucratic burden.

- What will your office do to minimize the number of eligible people losing health coverage to which they have a right under state and federal law? How will you advise the Centers for Medicare & Medicaid Services (CMS) and states on these matters?

Response: If confirmed, I will support the lawful implementation of the One Big Beautiful Bill's measures to protect and strengthen the health system for the most vulnerable.

Question 13: This Administration and Congressional Republicans destabilized state-run ACA marketplaces in their most recent ACA final rule and their reconciliation bill. These changes will raise prices and lock out health care access for millions of working people and their families. Twenty states have filed suit against these changes, the latest in a long string of HHS decisions accused of being arbitrary, capricious, and a violation of the Administrative Procedure Act.

- How will you counsel the leadership of HHS as they navigate the implementation of policies designed to kick hard working people off their health care and dismantle state-run exchanges?

Response: I cannot make a judgment on an internal issue at HHS. If confirmed, I will advise the administration to follow the law.

Question 14: The Government Accountability Office (GAO) found that HHS's withholding of Head Start funds violated the Impoundment Control Act. Do you accept GAO's findings, and if confirmed, will you issue legal guidance to prevent further violations?

Response: I believe that the President and Secretary are following the law, and I cannot make a legal judgment on an internal issue at HHS without all the facts. If confirmed, I will look into this.

Question 15: Mr. Stuart, as General Counsel, you would be responsible for ensuring that HHS adheres to the law. Under your potential oversight, OGC will defend the legality of HHS's massive workforce reductions and reorganization, including the termination of 20,000 employees and elimination of vital offices like the Office of Minority Health and disease prevention units at CDC.

- Do you believe these actions are consistent with federal civil service protections and HHS's statutory obligations to protect public health? What legal rationale will you rely on to defend these actions in court?
- If you discover that the mass layoffs of HHS personnel will interfere with the Department's ability to perform its statutory obligations what will you do?

Response: I believe that the President and Secretary are following the law, and I cannot make a legal judgment on an internal issue at HHS without all the facts. If confirmed, I will look into this.

Question 16: As HHS General Counsel, you would oversee the legal interpretation and enforcement of laws like the ACA, HIPAA, and the Title X Family Planning Program. Given your political background and prior campaign priorities, will you protect the legal rights of patients, including those who access reproductive health care or LGBTQ+ services who seek health care?

Response: If confirmed, I will advise the administration to follow the law.

Question 17: Recently, the Administration issued a directive expanding the definition of "federal public benefits" to include Head Start, making some immigrant children ineligible. In the 30 years since PRWORA, Head Start has never been understood as a federal public benefit.

- How do you explain the reversal of three decades of policy and precedent—which blatantly contradicts established law—in order to keep children away from life-improving services?

Response: I support the Trump administration’s work to ensure taxpayer-funded benefits are reserved for eligible individuals.

Question 18: In recent months, litigation has emerged around \$11 billion in COVID relief rescissions and cuts to indirect NIH funding. Plaintiffs allege these actions do not have a lawful justification and may harm underserved populations disproportionately.

- If confirmed, how will you ensure that your office provides legally sound, transparent rationales for HHS funding decisions, particularly those affecting biomedical research, pandemic preparedness, and community-based health organizations?

Response: If confirmed, I will look into the details of this litigation and be accountable to the courts and this committee.

Question 19: During your Senate Finance nominations hearing, you eventually responded “my advice would be to follow the rules of the law with respect to every one of these” when asked if it is legal for Kennedy to cancel a state's grant money for an arbitrary reason. However, HHS has frozen or redirected billions in NIH overhead costs and public health grants to align with political priorities, including canceling grants for reproductive health and DEI initiatives.

- If confirmed, will you commit to conducting legal reviews of all major grant cancellations or reallocations to ensure compliance with federal grant law?

Response: If confirmed, I will look into this.

Questions for the Record submitted to The Honorable Michael Stuart from Senator Cortez Masto.

Question 1: Do you agree that under federal law, hospitals must provide an emergency abortion if it is necessary to save the life of a pregnant woman, even in states with abortion bans?

Response: EMTALA requires life-saving care be given to all people, including pregnant women.

Question 2: If confirmed, will you commit to fully enforcing EMTALA whenever a hospital breaks the law, including when an abortion is needed to save a patient’s life?

Response: EMTALA requires life-saving care be given to all people, including pregnant women.

Question 3: If you’re ordered by political leadership to ignore or not enforce the federal EMTALA law, will you refuse to follow that order?

Response: President Trump and Secretary Kennedy will not ask me to break the law.

Question 4: Can you name a single case of health care fraud, including Medicaid and Medicare billing fraud, where a patient, not a provider or caretaker, was prosecuted for fraudulently obtaining Medicaid or Medicare coverage?

Question 5: Do you agree that almost every verified fraud case involves providers or caretakers who overbill, submit bogus claims, or misuse patient identities and not patients themselves?

Responses (4-5): I support the Trump Administration's actions to root out waste, fraud, and abuse to protect and strengthen federal healthcare programs for the most vulnerable. I agree that patients are less likely than providers to be prosecuted for fraud.

Question 6: If confirmed as HHS General Counsel, will you commit to strengthening fraud enforcement without wrongly kicking patients off coverage or discouraging honest providers, especially in small or rural communities, from participating in federal health programs?

Response: Combatting fraud will be one of my most important priorities if I am confirmed as General Counsel. Access to health care in rural areas is something I will strive to maintain and improve upon.

Questions for the Record submitted to The Honorable Michael Stuart from Senator Warren.

Ethics

Question 1: If you are confirmed, you will be the chief legal counsel for HHS. What steps will you take to ensure that the decisions of HHS are and appear to be independent and are not and do not appear to be conflicted with your personal interests or those of the Secretary?

Question 2: What steps will you take to divest from any financial interests or recuse from any particular matters in which you have a financial interest?

Question 3: Will you commit to setting up a screening process that would involve a third-party staff member screening each of your matters, before you learn of the matter, to determine whether the matter would trigger a conflict of interest?

Responses 1-3: I will follow all ethics and conflict of interest laws.

Question 4: How will you direct Secretary Kennedy and other HHS officers and employees to comply with federal ethics laws and prevent the existence or appearance of conflicts of interest?

Response: I will follow all ethics and conflict of interest laws and encourage everyone in the department to do the same.

Question 5: If confirmed, will you commit not to lobby HHS for at least four years after leaving office?

Question 6: If confirmed, will you commit to not seeking employment or board membership with, or another form of compensation from, a company that you helped the Department regulate, contract with, or otherwise interact with while you were in government, for at least four years after leaving office?

Responses 5-6: I will follow all ethics and conflict of interest laws.

Question 7: Have you or a member of your family ever been a member, founder, or investor of the “Executive Branch” social club? If so, please explain the role related to the club and (if applicable) explain which family member was involved.

Response: No.

Question 8: Have you or a member of your family ever visited the “Executive Branch” social club or attended an event at the club? If so, please provide the date, circumstances of the visit, and the event, and (if applicable) explain which family member was involved.

Response: No.

Question 9: Have you or a member of your family had any meetings at the “Executive Branch” social club? If so, what were these meetings about, with whom were these meetings, and (if applicable) which family member was involved?

Response: No.

Question 10: Have you or a member of your family encouraged anyone to join the “Executive Branch” social club or promote the club in any other way? If so, in what ways did you promote the club and (if applicable) which family member was involved?

Response: No.

Administrative Procedure Act

Question 11: How do you see your role as GC in the context of complying with the Administrative Procedure Act requirements?

- a. How do you interpret the good cause exemption under the Administrative Procedure Act? Under what circumstances would you recommend not providing notice and comment before rulemaking?

Question 12: Under your interpretation of the law, what procedures must be followed when issuing new policies for FDA approval so that those new policies are not considered arbitrary and capricious under the APA?

Question 13: Under your interpretation of the law, what procedures must be followed when issuing new policies for CDC approval so that those new policies are not considered arbitrary and capricious under the APA?

Responses 11-13: The General Counsel is responsible for providing all legal services and advice to the Secretary, Deputy Secretary, and all subordinate organizational components of the Department. I will ensure that the Office of the General Counsel provides advice on Administrative Procedure Act (APA) requirements that is tailored to the specific actions proposed by the Department and that gives due consideration to the APA requirements and relevant caselaw.

Question 14: How will you advise Secretary Kennedy to comply with the administrative requirements enumerated by the APA and other statutes?

- a. Do you believe that Secretary Kennedy has taken any actions that have been contrary to established precedent on administrative action or agency rulemaking under the APA?
- b. How would you handle a conflict between your interpretation of HHS statutory authority and the interpretation of Secretary Kennedy or his other advisors?
- c. Is Secretary Kennedy's decisions to unilaterally change or implement legislative rules without public comment consistent with your view of the APA's requirements?

Response: The General Counsel is responsible for providing all legal services and advice to the Secretary, Deputy Secretary, and all subordinate organizational components of the Department. I will ensure that the Office of the General Counsel provides advice on the Administrative Procedure Act (APA) and other statutes that is tailored to the specific actions proposed by the Department and that gives due consideration to the APA and other statutory requirements and relevant caselaw.

Question 15: In the wake of *Loper Bright* and *West Virginia*, how will you advise the Secretary on the scope of his authority to interpret and take administrative actions under ambiguous statutes?

Response: The General Counsel is responsible for providing all legal services and advice to the Secretary, Deputy Secretary, and all subordinate organizational components of the Department. I will ensure that the Office of the General Counsel provides advice on statutory interpretation that is tailored to the specific statutes and actions proposed by the Department and that gives due consideration to relevant caselaw.

Vaccines

Question 16: Do you believe that Secretary Kennedy's decision to fire the entire ACIP panel was done lawfully?

- a. Reporting suggests that Secretary Kennedy intends to remove all members of the U.S. Preventive Services Task Force (USPSTF) because its members are allegedly “too woke.”¹ Do you believe this justification is consistent with federal law?

Question 17: What constraints, if any, do you believe that the authorizing statute establishes for the Secretary to change the membership of ACIP or issue vaccine recommendations without a full panel of ACIP members?

Responses 16-17: If confirmed, I will work with my team and HHS officials to ensure personnel decisions are compliant with the law.

Question 18: Do you believe that Secretary Kennedy has the statutory authority to unilaterally change vaccines from the VICP program or change the vaccine injury table?

Response: If confirmed, I will work with my team and HHS officials to ensure that policy decisions are compliant with the law.

Question 19: Regarding the removal of FOIA offices and abolition of several advisory committee meetings, what will you do to assure transparency of HHS policy making on vaccines?

Response: I agree with Secretary Kennedy that a policy of radical transparency will help restore the trust of the American people.

Question 20: Broadly, do you believe that vaccines have public health benefits for children and adults?

Response: Yes, I believe vaccines have public health benefits.

Question 21: Do you still view vaccination requirements as a “war for freedom”²? If so, how will these views affect your interpretation of the law if confirmed?

- a. Will you respect states’ traditional powers to protect their communities from infectious diseases, including evidence-based vaccination requirements?

Response: Secretary Kennedy has said he will do nothing to make it difficult or discourage people from taking vaccines but instead seek transparency in these products. I will follow his lead on these matters.

Question 22: According to your understanding of the law, are insurers currently required to cover the COVID-19 vaccine for pregnant women without cost sharing?

¹ abc7, “RFK Jr. plans to oust ‘woke’ advisory panel on cancer screenings, preventative health: Sources,” Will McDuffie, July 26, 2025, <https://abc7.com/post/health-human-services-secretary-robert-kennedy-jr-plans-oust-woke-cancer-screenings-preventive-advisory-panel/17312601/>.

² Charleston Gazette-Mail, “Mike Stuart X post about WV vaccination bill,” March 26, 2024, https://www.wvgazettemail.com/mike-stuart-x-post-about-wv-vaccination-bill/html_1d163b5d-0969-5d8c-bee9-a9afb3c97aa4.html.

Question 23: According to your understanding of the law, are insurers currently required to cover the COVID-19 vaccine for healthy children without cost sharing?

Response (22-23): ACA-covered insurers must continue coverage of COVID-19 vaccines without cost sharing for pregnant women through the end of the current policy year. It is my understanding that CMS considers shared clinical decision-making recommendations to constitute recommendations that must be covered by ACA-covered insurers without cost sharing if they are listed on the CDC Immunization Schedules.

Question 24: According to your understanding of the law, are insurers required to cover vaccinations with a shared clinical decision-making recommendation from the CDC?

- a. If so, are insurers required to cover these vaccinations in all cases among the population for which the recommendation applies and the doctor recommends?
- b. If not, how would you expect insurers to determine whether shared clinical decision-making was used?

Responses 24: I will work to ensure the department is enforcing the law as it relates to insurance coverage for vaccines. It is my understanding that CMS considers recommendations for shared clinical decision-making listed on the CDC Immunization Schedule(s) to be routine recommendations where an ACA-covered insurer must provide coverage without cost sharing when the provider and patient jointly decide to administer the vaccine.

Question 25: Under your interpretation of the law, do the PREP Act's liability protections currently apply to the administration of the COVID-19 vaccine for pregnant women by all providers, including pharmacists?

Question 26: Under your interpretation of the law, could Secretary Kennedy revoke liability protections that exist under the PREP Act?

- a. What procedural steps and factual findings would make such a revocation not arbitrary and capricious?
- b. Would a retroactive revocation of liability protections be legally permissible, and if so, under what standard?

Responses 25-26: I will enforce the law as it relates to countermeasures.

Question 27: Under your interpretation of the law, can the Secretary add vaccines from VICP without an act of Congress?

Question 28: Under your interpretation of the law, can the Secretary remove vaccines from VICP without an act of Congress?

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Question 29: Under your interpretation of the law, what steps would HHS need to take to add a vaccine to VICP?

Question 30: Under your interpretation of the law, what steps would HHS need to take to remove a vaccine from VICP?

Question 31: Secretary Kennedy has expressed interest in overhauling VICP, including by expanding the statute of limitations for the VICP and the individuals who would be eligible to seek compensation from it. Under your interpretation of the law, which decisions could be made under existing statutory authority? Which would require additional action from Congress?

Responses 27-31: I will enforce the law as it relates to the Vaccine Injury Compensation Program.

Question 32: Under your interpretation of the law, what procedures must be followed when revising CDC vaccine recommendations informed by ACIP?

Response: ACIP informs the CDC Director's vaccine recommendations. The CDC Director reviews those recommendations and considers whether to adopt them. Under direction from President Trump's Executive Order, those recommendations will follow gold standard science.

Question 33: How do you understand the Federal Advisory Committee Act (FACA) requirements with regard to ACIP and all the individuals Secretary Kennedy recently appointed to ACIP?

Question 34: Under your interpretation of the law, what conflicts of interest and ethics vetting was required of ACIP members in advance of the June 25, 2025 ACIP meeting?

Question 35: Under your interpretation of the law, is it permissible for ACIP members' conflicts of interest to not be publicly disclosed?

Question 36: Under your interpretation of the law, was it permissible for all ACIP members' conflicts of interest to not be publicly disclosed prior to the official meeting on June 25, 2025?

Responses 33-36: Resetting ACIP with a new cohort of qualified scientists and public health experts will rebuild public trust and confidence in our health care institutions. If confirmed, I will ensure nominees for ACIP are comprehensively reviewed for conflicts of interests in accordance with federal law, regulations and departmental policies—and receive ethics training prior to discharging their duties.

Question 37: Under your interpretation of the law, in what instances would Secretary Kennedy's unresolved conflicts of interest require him to step away from decisions, or interfere with his impartiality?

Response: Secretary Kennedy would have resolved any conflicts of interest with the Office of Government Ethics prior to his confirmation process.

NIH Cuts and Indirect Costs

Question 38: The Constitution gives Congress the “power of the purse” to direct federal spending. Do you commit to advising the Secretary to spend all federal funds as directed by Congress, including through appropriations laws?

Response: I will follow the law regarding appropriations from Congress.

Question 39: Secretary Kennedy has cut at least \$2.7 billion in NIH funding for research.³ As a result, many biomedical research projects — including hundreds of clinical trials — have been shuttered. In your legal judgment, are these cuts consistent with federal law?

- a. Do you commit to help fully resolve the funding freeze at NIH in compliance with relevant court orders, including by ensuring that all paused grants are resumed, no further current grants are cancelled, and that new grants continue to be reviewed and approved?

Question 40: While Secretary Kennedy’s cuts to NIH research funding have been wide-ranging, he has targeted certain areas of research such as vaccine hesitancy, gender-affirming care, and the health effects of climate change.

- a. Are Secretary Kennedy’s decisions to target research on vaccines, gender-affirming care, and climate change consistent with the law?

Responses 39-40: I will follow the law as it relates to grant funding decisions.

Question 41: Since Fiscal Year 2018, Congress has explicitly prohibited changes to NIH indirect cost policies and rates in appropriations laws. Is Secretary Kennedy’s 15% cap on the NIH indirect cost rate consistent with the law?

Question 42: Given the statutory prohibition on changing the indirect cost formula, will you commit to advising the Secretary that future attempts to reduce indirect costs are unlawful and that such funds must be disbursed to grantees?

Responses 41-42: I will follow the law as it relates to indirect costs.

Question 43: Do you believe that Secretary Kennedy has the unilateral authority to terminate grant programs that have been created and funded by Congress because he disagrees with the policy goals of the program?

Response: I will follow the law as it relates to grant funding decisions.

Question 44: What is your understanding of the *Impoundment Control Act*?

Question 45: Do you commit to ensuring that HHS follows the law and disburses all congressionally appropriated grant funding, as required by the Constitution and Impoundment Control Act?

Response: I will follow the law regarding appropriations from Congress.

³ Health, Education, Labor and Pensions Committee, “Trump’s War on Science,” May 13, 2025, p. 1, <https://www.sanders.senate.gov/wp-content/uploads/HELP-Committee-Minority-Report-Trump-s-War-on-Science.pdf>.

Question 46: Do you commit to fully complying with court orders that direct HHS to restore grants that have been cancelled or terminated unlawfully, and instructing staff on how to comply with such orders?

Response: I will follow the law as it relates to grant funding decisions.

Question 47: Do you commit to expending the money that Congress appropriates and authorizes?

Question 48: Do you commit to notifying the Senate Finance Committee, including the majority and minority, if you are asked not to comply with the *Impoundment Control Act* or not to expend the money that Congress appropriates or authorizes?

Question 49: The Constitution's Spending Clause (Art. I, § 8, cl. 1) and Appropriations Clause (Art. I, § 9, cl. 7) give Congress, not the Executive, power of the purse. The Supreme Court has unanimously upheld this power. Do you believe that impoundments are constitutional?

Question 50: What is your understanding of the requirements for HHS to obligate funding that Congress authorizes and appropriates, in accordance with the time period that Congress deems it to do so?

Question 51: Do you commit to expending the money that Congress appropriates and authorizes?

Question 52: If you became aware of a potential violation of the *Antideficiency Act*, *Impoundment Control Act*, or other appropriations laws, what steps would you take?

Responses 47-52: I will follow the law regarding appropriations from Congress.

Reproductive Rights

Question 53: You have self-identified as “unapologetically pro-life.”⁴ Do you still hold this position?

Response: Yes.

Question 54: During your time representing West Virginia's 7th District in the West Virginia State Senate, you voted for S.B. 620, which expands funding for CPCs.

- a. Do you still support increasing funding for CPCs?
- b. Do you believe that the theories and practices of CPCs are consistent with best practices for reproductive health?
- c. Do you believe that CPCs promote public health?

Response: Crisis pregnancy centers play a critical role in aiding pregnant women.

Question 55: You voted for S.B. 85, a bill to criminalize the prescription, mailing, and distribution of medication abortion.

- a. Do you support or oppose physicians' ability to prescribe, mail, and distribute abortion medication?

⁴ Tweet by Mike Stuart, July 28, 2022, <https://x.com/MikeStuartWV/status/1552673630324199425>.

- b. Do you support or oppose this practice occurring across state lines?
- c. In 2023, the FDA permanently lifted the in-person dispensing requirement for mifepristone, allowing it to be mailed in states where medication abortion via telehealth is permitted.⁵ If confirmed as HHS GC, would you direct FDA to continue to follow the current REMS on mifepristone?
- d. Do you agree with the interpretation of the Comstock Act as laid forth in the Department of Justice's December 2022 OLC opinion?⁶

Response: If confirmed, I will follow the law. I understand that as part of its REMS, FDA continually evaluates data on applicable drugs that informs its REMS and, if confirmed, I will look into this issue and ensure an adherence to gold standard science and the law.

Question 56: You cosponsored S.B. 584, which expands West Virginia's abortion ban to eliminate the limited exceptions for abortions in the case of rape and incest.

- a. Do you support exceptions in the case of rape, incest, or to save the life of the pregnant patient?
- b. If you do not support such exceptions, how will you ensure that HHS and other entities that receive federal HHS funds comply with the Hyde Amendment, which allows the use of federal funds for abortion in these circumstances?

Response: As General Counsel, I will follow the law and ensure compliance with the Hyde amendment.

Question 57: Last month, the FDA opened a "review" of the latest information on mifepristone.⁷

- a. Please explain what steps are legally required in order to modify a drug's REMS?
- b. How will you ensure that any FDA actions regarding the regulation of mifepristone are undertaken free from political interference, in accordance with federal law and HHS' Scientific Integrity Policy?⁸

Response: If confirmed, I will follow the law. I understand that as part of its REMS, FDA continually evaluates data on applicable drugs that informs its REMS and, if confirmed, I will look into this issue and ensure an adherence to gold standard science and the law.

⁵ ACOG, "Updated Mifepristone REMS Requirements," <https://www.acog.org/clinical/clinical-guidance/practice-advisory/articles/2023/01/updated-mifepristone-rems-requirements>.

⁶ U.S. Department of Justice, "Application of the Comstock Act to the Mailing of Prescription Drugs That Can Be Used for Abortions," December 23, 2022, <https://www.justice.gov/olc/opinion/file/1560596/dl?inline>.

⁷ CBS News, "FDA to 'review the latest data' on mifepristone. What could it mean for access to the abortion pill?," Sara Moniuszko, June 5, 2025, <https://www.cbsnews.com/news/fda-review-mifepristone-abortion-pill-access/>.

⁸ U.S. Department of Health and Human Services, "The Scientific Integrity Policy of the U.S. Department of Health and Human Services," March 21, 2025, <https://www.hhs.gov/sites/default/files/hhs-scientific-integrity-policy.pdf>.

Question 58: Do you agree that Medicare-participating hospitals are required by law to provide medical care, including abortion, in every state in the country when necessary to save the life or prevent serious harms to the health of the patient?

- a. What is your understanding of whether EMTALA preempts state laws prohibiting abortion in these circumstances?

Response: EMTALA requires life-saving care be given to all people, including pregnant women.

Question 59: The Trump Administration has recommended eliminating funding for Title X, a congressionally mandated spending program to ensure low-income Americans have access to family planning services. Despite this zero-budget proposal, what do you think are HHS' obligations to comply with appropriations provided for Title X programs in FY 2025?

- a. If Congress appropriates money in Fiscal Year 2026 for the Title X program, how will you ensure that HHS allocates the funding in compliance with the law?

Response: I will follow the law regarding appropriations from Congress.

Question 60: On June 26, 2025, the Supreme Court ruled that Medicaid patients cannot sue to enforce their right to see their qualified provider of choice, effectively allowing states to exclude Planned Parenthood health clinics from their Medicaid programs. Instead, patients must rely on HHS to enforce states' compliance with Medicaid provisions, including beneficiaries' ability to choose "any qualified provider" for their care. How do you believe HHS should respond when states exclude otherwise qualified and willing providers from their Medicaid programs?

Response: I will abide by the Supreme Court's decision in *Medina v. Planned Parenthood*.

Reorganization and Mass Terminations

Question 61: Under your interpretation of the Supreme Court's ruling on July 8, 2025, are the mass lay-offs at HHS lawful?

- a. How would you have advised the Secretary to comply with the court rulings?

Question 62: Under your interpretation of the law, were the terminations challenged in *Jackson v. Kennedy* unlawful?

- a. How would you advise the Secretary on HHS' use of more complete data in mass terminations?

Responses 61-62: If confirmed, I will work with my team and HHS officials to ensure personnel decisions are compliant with the law.

Question 63: At what point would the lay-offs and reorganization render HHS unable to fulfill its statutory obligations?

Response: I will work to ensure HHS can fulfill its statutory obligations.

Question 64: If you find that the cuts proposed by Secretary Kennedy would render HHS unable to fulfill its statutory obligations, will you advise the Secretary to mitigate those cuts?

Response: I will provide legal counsel to the best of my ability to Secretary Kennedy and the rest of the department.

Question 65: The closure of six HHS-OGC regional offices will increase the workload of the remaining offices by 300 percent, resulting in “less enforcement, cases falling through the cracks, and the quality of legal analysis declining.”⁹ How will you ensure these cuts do not leave patients unprotected or result in increased waste, fraud, and abuse?

Question 66: Given the shift of HHS-OGC offices from its focus on protecting civil rights as well as the consolidation of the Civil Rights and Health Division with the legal team advising the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology, how would you ensure that civil rights concerns with HHS are addressed in a timely and efficient manner?

Responses 65-66: I will work to ensure HHS successfully fulfills its statutory obligations.

Question 67: OGC’s mission statement has also been updated such that legal advice from OGC “shall be binding on the Department unless overturned by the Secretary,” giving the GC unprecedented power over HHS.¹⁰ Will you commit that you will not let any ideological influence – from President Trump, Secretary Kennedy, or any other administration official – affect your legal advice and opinions?

Response: I will always follow the law.

Medicare Advantage

Question 68: Do you believe that, to date, the MA program has succeeded in providing Medicare-eligible individuals with coverage of comparable quality and cost to traditional Medicare?

Response: I look forward to working with CMS to enforce the law and ensure Medicare Advantage is adequately serving patients.

Question 69: Under your interpretation of the law, is there a method for HHS or CMS to legally change the default enrollment of Medicare-eligible beneficiaries to MA rather than traditional Medicare without further congressional action?

⁹ Project on Government Oversight, “HHS Watchdog Cuts Could Increase Waste, Fraud, and Abuse, Inside Sources Say,” Maren Machles, June 12, 2025, <https://www.pogo.org/investigations/hhs-watchdog-cuts-could-increase-waste-fraud-and-abuse-inside-sources-say>.

¹⁰ U.S. Department of Health and Human Services, Federal Register Notice, “Statement of Organization, Functions, and Delegations of Authority,” March 14, 2025, <https://www.federalregister.gov/documents/2025/03/14/2025-04130/statement-of-organization-functions-and-delegations-of-authority>.

Response: I look forward to working with CMS to enforce the law and ensure patients are best served no matter their choice of Medicare Advantage or traditional Medicare.

Question 70: What is the extent of HHS' and CMS' statutory and regulatory authority to claw back overpayments to MA plans?

- a. Do you plan to advise Secretary Kennedy or Administrator Oz to engage in rulemaking to codify announced changes to the RADV audit program?¹¹
- b. Are there mechanisms or legal tools HHS and CMS have at their disposal to crack down on upcoding and other wasteful, fraudulent, and abusive practices by MA plans that have not already been used by this or prior administrations?
- c. Do you believe that upcoding is Medicare fraud?

Response: I look forward to working with CMS to enforce the law and ensure Medicare Advantage is adequately serving patients.

Question 71: What is the extent of HHS and CMS statutory and regulatory authority to prevent misleading or abusive marketing practices by MA plans and their contracted Third-Party Marketing Organizations?

- a. How do you believe that the Medicare Communications and Marketing Guidelines could be strengthened within the existing constraints of HHS and CMS authority?

Response: I look forward to working with CMS to enforce the law and ensure Medicare Advantage is adequately serving patients.

Question 72: What is the extent of HHS and CMS statutory and regulatory authority to rein in aggressive prior authorization practices by MA plans that may be preventing patients from receiving medically necessary care?

Response: I was encouraged to see the work HHS and CMS have done already to encourage fairer prior authorization practices by private market insurers and look forward to finding more ways to ensure better patient access to timely care.

Question 73: Do you believe that the text of the Inflation Reduction Act permits CMS to expand the inflation rebate program to prescription drug units dispensed to MA plan enrollees?

Response: If confirmed, I will look into this issue.

Question 74: What existing statutory authority do you believe CMS has to collect data on, monitor, and regulate the use of transfer pricing techniques to evade the Medical Loss Ratio requirements for MA plans?

Response: If confirmed, I will look into this issue.

¹¹ CMS, "CMS Rolls Out Aggressive Strategy to Enhance and Accelerate Medicare Advantage Audits," press release, May 21, 2025, <https://www.cms.gov/newsroom/press-releases/cms-rolls-out-aggressive-strategy-enhance-and-accelerate-medicare-advantage-audits>.

Implementation of the “One Big Beautiful Bill Act”

Question 75: Under your interpretation of the law, how will HHS establish verification requirements for disability exemptions in the work requirements that comply with the Americans with Disabilities Act (ADA) and privacy laws?

Question 76: What framework would you recommend to create an appeals process for Medicaid exclusion and exemption denials?

Responses 75-76: I will follow the law as it relates to disability exemptions in the One Big Beautiful Bill (OBBA) and ensure Medicaid enrollment processes allow individuals who qualify to enroll while protecting the program from waste, fraud, and abuse.

Question 77: How will your office ensure the law’s so-called work requirements are uniformly implemented across states in a manner that is consistent with the law?

- a. How will you ensure that HHS guidance addresses the varying administrative capabilities of different states?

Response: I look forward to working with CMS and states as they implement the work requirements in the OBBA.

Question 78: What frameworks would you recommend HHS use to guide states in establishing selection criteria for contractors of Medicaid eligibility redeterminations, monitoring contractor performance, and holding contractors accountable for performance failures?

- a. Do you believe HHS has the authority to either require or prohibit pay-for-performance clauses in state Medicaid contracts, wherein contractors are rewarded for identifying higher numbers of ineligible enrollees?

Response: I look forward to working with CMS and states to ensure that only those eligible for Medicaid have access to benefits.

Question 79: Will you commit that you will not let any ideological influence – from President Trump, Secretary Kennedy, or any other administration official – affect “good faith” exemptions, state waiver decisions, and HHS Rural Health Transformation Program’s decisions?

Response: I will always follow the law.

Question 80: How will you ensure that “good faith” exemptions, budget neutrality determinations, state waiver approvals, and allocations from the Rural Health Transformation Program are not influenced by political considerations or state relationships with the administration or other Trump administration officials?

Response: I will follow all ethics and conflict of interest laws.

Question 81: Will HHS publish detailed budget neutrality calculations for each approved 1115 waiver, including assumptions about coverage losses and administrative costs?

Response: I will seek to emulate Secretary Kennedy in his desire to ensure radical transparency.

Question 82: The CMS Administrator will determine the criteria on the discretionary allocation of 50 percent of funds in the Rural Health Transformation Program. How will you ensure that the Administrator's criteria is consistent with the law?

Question 83: Given that the CMS Administrator could "withhold payments to, reduce payments to, or recover previous from" the State if deemed "appropriate" for the Rural Health Transformation Program, how will you ensure that the Administrator's criteria to measure appropriateness is consistent with the law?

Response 82-83: I will work to ensure the Rural Health Transformation Program is compliant with the text and Congressional intent behind OBBA.

Protecting Head Start from Drastic Cuts and Administrative Hurdles

Question 84: Head Start has a strong track record of promoting child development. The Trump Administration's attempts to undermine Head Start will harm children and their families. Do you commit to protecting Head Start from proposals that seek to render it ineffective by giving legal cover for drastically reducing its budget or otherwise seeking to eliminate it entirely?

Response: I am committed to working with policy makers to ensure Head Start and all actions for which I will provide legal guidance related to Head Start are fully compliant with the law.

Question 85: Do you believe there is a legal basis for Secretary Kennedy's decision to block undocumented children from participating in programs like Head Start? If so, please describe the legal basis.

Response: I agree with President Trump and Secretary Kennedy that taxpayer-funded programs should serve American citizens, not illegal aliens.

Question 86: Secretary Kennedy has also made disturbing comments about children with disabilities, saying in a press conference that autistic kids "will never pay taxes. They'll never hold a job. They'll never play baseball. They'll never write a poem. They'll never go out on a date. Many of them will never use a toilet unassisted."¹² As OGC, you will be making decisions about programs that impact children with disabilities, including Head Start, which requires at least 10 percent of its "slots be occupied by children with disabilities."¹³ What do you make of these statements, and how will you advise the Secretary in instances when he makes dangerous statements or decisions that directly impact children with disabilities—and potentially even invalidate anti-discrimination laws---in HHS programs you oversee?

Response: Secretary Kennedy's comments were clearly taken out of context. My record in support of children and children with disabilities is crystal clear. As the US Attorney for

¹² ABC News, "RFK Jr.'s comments on autism draw reactions from parents and experts," Bethany Braun-Silva, April 17, 2025, <https://abcnews.go.com/GMA/Wellness/parents-experts-react-rfk-jrs-autism-claims/story?id=120911306>.

¹³ Head Start, "FAQs About the 10% Enrollment Requirement," <https://headstart.gov/publication/faqs-about-10-enrollment-requirement>.

the SDWV, I was the architect of a landmark agreement between DOJ and the State of West Virginia specifically providing substantially broad support for children with disabilities. Individuals with autism exist on a spectrum, and Secretary Kennedy was clearly talking about individuals with severe autism. I am confident Secretary Kennedy supports ACF's mission and values.

Office of Refugee Resettlement

Question 87: Will you advise HHS, including the Office of Refugee Resettlement (ORR), to comply with the requirements of the Trafficking Victims Protection Reauthorization Act?

Response: I will follow the law on this topic.

Question 88: Will you advise HHS, including ORR, to comply with the Flores Settlement Agreement?

Question 89: What steps will you take as General Counsel to ensure that ORR does not violate laws mandating protections for unaccompanied children?

Responses 88-89: I will follow the law with regard to the protections for unaccompanied children.

Question 90: Under your interpretation of the law, what legal authority does ORR have to share data with Immigration and Customs Enforcement (ICE)?

Question 91: What limitations do you believe the law requires on ORR's data sharing with ICE?

Responses 90-91: I will follow all applicable privacy laws and regulations.

Question 92: Do you pledge to provide Congress with transparency around HHS's compliance with laws related to the treatment of unaccompanied children?

Response: I will seek to emulate Secretary Kennedy in his desire to ensure radical transparency.

Question 93: Will you commit to reviewing ORR's data-sharing policies and ensuring they comply with child welfare laws?

Question 94: What legal safeguards would you advise ORR to adopt to protect the privacy and safety of unaccompanied children and their families or sponsors?

Responses 93-94: I will follow all applicable privacy laws and regulations.

Question 95: Will you advise ORR to follow court orders?

Response: I respect decisions made by the judicial branch.

U.S. Preventative Services Task Force

Question 96: The Secretary of HHS abruptly cancelled a meeting of the U.S. Preventive Services Task Force originally scheduled for July 10, 2025 and intends to remove all members of this Task Force, as was reported on July 25, 2025.¹⁴ This is the same tactic Secretary Kennedy used to disrupt and ultimately overhaul ACIP, replacing the committee with ideological cronies.

- a. Will you commit that you will not let any ideological influence – from President Trump, Secretary Kennedy, or any other administration official – affect preventive services mandates?
- b. How will you ensure that preventive services mandates are not influenced by ideological considerations or conflicted interests?
- c. Under what circumstances would wearable devices qualify as preventive services under Section 2713 of the Affordable Care Act, and what regulatory criteria must be met for health plans to be required to cover them without cost-sharing?

Response: I will follow all ethics and conflict of interest laws and will encourage everyone at the Department to do the same.

Competition

Question 97: The health care industry is historically consolidated following decades of mergers and acquisitions between health care firms. Consolidation and the resulting lack of competition has been proven to lead to higher prices for patients and taxpayers and decreased innovation. Consolidation may have especially negative impacts on rural communities.

- a. Do you agree that HHS should work to make health care more affordable and accessible to Americans in order to make them healthier?

Response: Yes.

Question 98: If confirmed as General Counsel of HHS, will you work with the Department of Justice and the Federal Trade Commission to stand up to mergers, acquisitions, and roll-up strategies that would raise prices for Americans and make health care less accessible, including through the [tri-agency collaboration](#) effort announced in December 2023?¹⁵

Question 99: What offices under your jurisdiction do you believe have the ability to promote competition in the health sector? In what ways will you ensure that those offices will work to make health care more accessible and affordable through increased competition?

¹⁴ Wall Street Journal, “RFK Jr. to Oust Advisory Panel on Cancer Screenings, HIV Prevention Drugs,” Liz Essley Whyte, July 25, 2025, <https://www.wsj.com/health/healthcare/rfk-health-screening-panel-members-c308cbb0>.

¹⁵ Federal Trade Commission, “FTC, DOJ and HHS Work to Lower Health Care and Drug Costs, Promote Competition to Benefit Patients, Health Care Workers,” press release, December 7, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-doj-hhs-work-lower-health-care-drug-costs-promote-competition-benefit-patients-health-care>.

Responses 98-99: I look forward to working to ensure that mergers and acquisitions are in the best interest of the American people.

Retaliation and Protecting Whistleblowers

Question 100: Do you believe that HHS personnel should be protected from any form of retaliation for coming forward about an illegal order, sexual assault or harassment, negligence, misconduct, or any other concern that they wish to raise?

Response: I will follow all laws and regulations that relate to whistleblower protections.

Question 101: Have you ever retaliated against any individual for coming forward about an illegal order, sexual assault or harassment, negligence, misconduct, or any other concern that they wish to raise?

Response: No.

Question 102: If you are confirmed, will you commit to protecting whistleblowers? If so, please specify how you will do so.

Response: Yes, I will follow all laws and regulations that relate to whistleblower protections.

Question 103: If you are confirmed, will you commit to preventing retaliation against any individual for coming forward about an illegal order, sexual assault or harassment, negligence, misconduct, or any other concern that they wish to raise?

Response: I will follow all laws and regulations that relate to whistleblower protections.

Question 104: Will you ensure your staff complies with any Inspector General deadlines established for requested communications, documents, and witnesses, and that staff will be protected from reprisal for their testimony?

Response: I will seek to emulate Secretary Kennedy in his desire to ensure radical transparency.